

Sweet, J.

UNITED STATES DISTRICT COURT for the
SOUTHERN DISTRICT OF NEW YORK

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CHARLES COLEMAN, JOHN T. COONEY, JR., JAMES
BODRATO, and JOHN J. CHIAFFI, in their fiduciary capacity
as Trustees for the LABORERS LOCAL 754 HEALTH &
WELFARE FUND, PENSION FUND, SAVINGS FUND,
ANNUITY FUND, INDUSTRY ADVANCEMENT FUND,
DUES SUPPLEMENT FUND, LECET FUND, NATIONAL;
HEALTH AND SAFETY FUND, NYSLPAFUND, 754 LECET
FUND, TRAINING FUND and ORGANIZING FUND; and
CHARLES COLEMAN and JOHN J. CHIAFFI, as Officers
of LABORERS LOCAL UNION 754,

Plaintiffs,

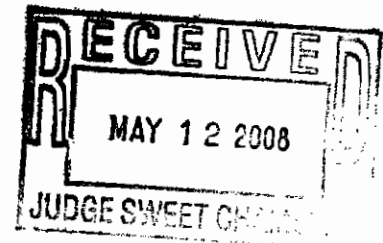
-against-

BARBATO CONSTRUCTION COMPANY, INC.,
GARY E. HULT, and DOE FIDUCIARY,

Defendants.
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**STIPULATION
OF SETTLEMENT
AND ORDER OF
DISMISSAL**

08-CV-00023
(Sweet, J.)
(Gorenstein, M.J.)

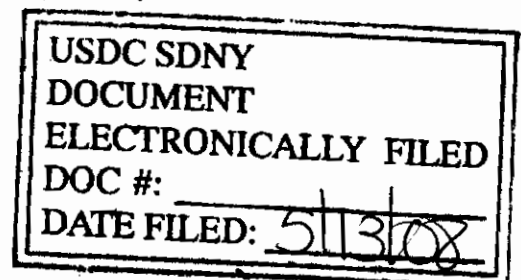


Whereas, defendant Gary E. Hult ("HULT") and defendant Barbato Construction Company, Inc. ("BARBATO") (collectively, "EMPLOYER"), executed a collective bargaining agreement between the Eastern New York Laborers' International District Council And Its Affiliate Laborers' Local 754 ("LOCAL 754") and Contractors Association of Rockland County, Inc., ("CBA");

Whereas, the CBA requires BARBATO to submit fringe benefit contributions to the Laborers' Local 754 Joint Benefit Funds ("FUNDS") and submit union dues and assessments to LOCAL 754;

Whereas, there are delinquent contributions, dues and assessments due and owing to the FUNDS and LOCAL 754 from Defendant which are from the period of May 1, 2007 to August 2007 in the sum of at least \$5,178.60 as a result of work performed by individual employees pursuant to the CBA;

WHEREAS, plaintiffs Charles Coleman, John T. Cooney, Jr., James Bodrato, and John J. Chiaffi, in their Fiduciary Capacity as trustees for the Laborers Local 754 Health & Welfare Fund, Pension Fund, Savings Fund, Annuity Fund, Industry Advancement



Fund, Dues Supplement Fund, LECET Fund, National Health and Safety Fund, NYSLPA Fund, 754 LECET Fund, Training Fund and Organizing Fund; and Charles Coleman and John J. Chiaffi, as Officers of Laborers Local Union 754 (collectively "Plaintiffs"), filed a complaint on January 2, 2008 alleging that Defendants BARBATO and HULT and DOE FIDUCIARY (collectively "Defendants") were delinquent on dues and contributions owed to Plaintiffs;

Whereas, EMPLOYER represents that BARBATO is no longer doing business and agree that any misrepresentations contained in this representation shall constitute a material breach of this Settlement Stipulation for which Plaintiffs reserve their rights to enforce the terms of the Settlement Stipulation or resort to any other legal remedies; and

Whereas, the parties wish to resolve the issues alleged in the Complaint in this action and have negotiated in good faith for that purpose;

IT IS HEREBY AGREED, by and among, Plaintiffs, represented by attorneys, HOLM & O'HARA LLP, and EMPLOYER, represented by Attorney-at-Law, Daniel H. Luciano, Esq., that the dispute over EMPLOYER's failure to pay contributions, dues and assessments to the Plaintiffs is settled upon the following terms and conditions:

- 1) Any and all of the claims for damages by Plaintiffs which are the subject of this action or otherwise arise out of any of the incidents alleged in the Complaint are hereby settled, as against the named Defendants, for the sum of \$7,678.60, which includes \$5,178.60 in full satisfaction of all claims for damages for the period May and August 2007 plus \$2,500.00 for legal fees;
- 2) EMPLOYER shall, simultaneously with the execution of this Stipulation of Settlement and Order of Dismissal, deliver to Plaintiff's counsel, Holm & O'Hara LLP, the lump sum payment of \$7,678.60 by check made payable to the order of the "Laborers' Local 754 Joint Benefit Funds";
- 3) In consideration for the payment of the sum stated in Paragraph #2 above, each of the Plaintiffs, jointly and severally, hereby release each of the named Defendants in their individual and official capacities, from any and all claims, liabilities and causes of action related to or arising out of any and all of the events set forth in the Complaint in the above-captioned action;
- 4) No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall operate or be construed as a waiver of any subsequent breach or default of the same or similar nature; and

AND
DISMISSED
WITH
PREJUDICE

- 5) No provision of this Stipulation shall be modified, amended, extended, discharged, terminated or waived except by a writing specifically referring to this Stipulation and signed by all parties hereto.

Dated: New York, New York
April 30, 2008

Laborers Local 754 Health &
Welfare, Pension, Savings,
Annuity, Industry Advancement,
Dues Supplement, LECET, National
Health & Safety, NYSLPA, 754 LECET,
Training, and Organizing Funds and
Laborers Local Union 754

By: Charles Coleman
Charles Coleman
Trustee of the FUNDS &
Business Manager of LOCAL 754

BARBATO CONSTRUCTION
COMPANY, INC.

By: GARY S. HULT, name
PRES., title
321 SPICKER AVE., address
So. Plainfield, N.J. 07080, address

E.
GARY HULT

By: GARY HULT

Social Security Number: [REDACTED]

FOR PLAINTIFFS:

By: Carol G. Dell
Carol G. Dell (CG7895)
HOLM & O'HARA LLP
3 West 35th St., 9th Fl.
New York, NY 10001
(212) 682-2280

FOR EMPLOYER:

By: Daniel H. Luciano
Daniel H. Luciano
Attorney-at-Law
242A West Valley Brook Rd.
Califon, NJ 07830
(908) 832-5546

SO ORDERED:

Robert W. Sweet
The Honorable Robert W. Sweet
United States District Judge

5-12-08